REMARKS/ARGUMENTS

Reconsideration is respectfully requested of the Official Action of May 5, 2004, relating to the above-identified application.

In order to expedite favorable action in this application, Claim 7, directed to the non-elected invention, has been deleted without prejudice.

A new title has been inserted in accordance with the Examiner's suggestion.

Applicants' confirm that the deletion of the claim of the non-elected invention does not affect the present inventorship.

It is noted that the priority document has been received and that the Information Disclosure Statement has been considered by the Examiner.

Claim 1 has been amended to provide proper antecedent basis for the terminology in Claims 3 and 6, respectively, and, therefore, is believed that the rejection of Claims 3 and 6 under 35 U.S.C. § 112 has been overcome.

The rejection of Claims 1, 2, 4 and 5, under 35 U.S.C. § 103(a), as being unpatentable over *Uhlemann* (US 4,946,654) in view of *Abraham* (WO 01/25146), is traversed and reconsideration is respectfully requested. The Official Action points out that the *Uhlemann* patent teaches a process for preparing granulates with a fluidized bed spray granulation at atmospheric pressure in the presence of a fluidizing gas and for solidifying the spray product. The fluidizing gas can be, for example, nitrogen. *Uhlemann* mentions a number of inorganic compounds that can be used in the form of variable compositions but fails to show the particular inorganic chemical; namely, alkali metal sulfides, as set forth in the present claims.

The Official Action relies on *Abraham* for a teaching of a preparation of anhydrous alkali metal sulfides by spray drying.

The Official Action concludes that it would have been obvious to one of ordinary skill in the art to have selected an alkali metal sulfide in place of the inorganic chemical in the *Uhlemann* patent to carry out a fluidized bed spray granulation process. Applicants would point out that *Abraham* discloses the spray drying of alkali metal sulfides and in that process the alkali metal sulfides have a short dwell time in the spray dryer.

In contrast therewith, *Uhlemann* discloses a dry bed spray granulation system. A person skilled in the art would not substitute the spray dryer by the fluidized spray granulation because the dwell time in the fluidized bed reactor is very long. In this case, the alkali metal sulfides, for example the melt, can aglomerate, can and form very large particles which cannot be kept in a fluidized state. Consequently, applicants respectfully submit that there is no motivation for a person skilled in the art to consider that fluidized bed granulation and spray drying techniques are interchangeable and that materials used in one such process could be easily used in the other process. That is, a person skilled in the art would not necessarily conclude that the alkali metal sulfide used in the spray drying operation of *Abraham* could be used with equally good results in the fluidized bed granulation system of *Uhlemann*. No evidence of interchangeablity is of record; see, *ex parte Brouard* 201 USPQ 538 (POBA 1977); see also, *In re Huellmantel*, 139 USPQ 496 (CCPA).

To establish a *prima facie* obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine

reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure, *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification. *In re Linter,* 458 F.2d 1013, 173 USPQ 560, 562 (CCPA 1972).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine,* 837 F2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones,* 958 F2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The mere fact that references <u>can</u> be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills,* 916837 F2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

A statement that the modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art at the time the claimed invention was made because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* obviousness without

some objective reason to combine the teachings of the references. *Ex parte Levengood,* 28 USPQ 2d, 1300 (Bd. Pat. App. & Int. 1993).

In view of the foregoing, applicants respectfully submit that no *prima facie* case of obviousness has been established by the Official Action; and, therefore, the rejection based thereon should be withdrawn and the claims allowed.

Favorable action at the Examiner's earliest convenience is respectfully requested.

Respectfully submitted,

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